

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Kevin Washington & Tawana Washington

(b) County of Residence of First Listed Plaintiff Philadelphia Co.
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Matthew B. Weisberg, Esquire
Weisberg Law, 7 South Morton Avenue, Morton, PA 19070
mweisberg@weisberglawoffices.com (610) 690-0101

DEFENDANTS

Philadelphia Gas Works, et al.

County of Residence of First Listed Defendant Philadelphia Co.
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 4th & 14th Amendment
 Brief description of cause:
 Violation of Due Process

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

will supply

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

Kevin Washington & Tawana Washington, :
individ. & as h/w :
1377 Farrington Rd. :
Philadelphia, PA 19151 :

Plaintiffs, :

v. :

NO.:

Philadelphia Gas Works :
800 W. Montgomery Ave. :
Philadelphia, PA 19122 :

And :

City of Philadelphia :
d/b/a Philadelphia Gas Works :
1515 Arch Street :
Philadelphia, PA 19102 :

Jury of Twelve (12) Jurors Demanded

And :

John Does 1-10 :

Defendants. :

CIVIL ACTION COMPLAINT

I. Jurisdiction and Venue

1. Jurisdiction in this Honorable Court is based on a violation of federal law conferred by 28 U.S.C. §1331; supplemental jurisdiction over state law claims is granted by 28 USC §1367.
2. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391(b) in that the events giving rise to Plaintiff's claims occurred in this District.

II. Parties

3. Plaintiffs, Kevin Washington and Tawana Washington, are married and adult individuals residing at the above-captioned address.

4. Defendant, Philadelphia Gas Works (“PGW”), is a utility owned by Defendant, City of Philadelphia.

5. Defendants, John Does 1-10, is a moniker/fictitious name for individuals and entities currently unknown but will be substituted when known, as affiliated, associated or liable hereunder for the reasons set forth below or inferred therefrom. Each of these parties are incorporated as Defendants in each and every count and averment listed above and below. Upon information and belief, Defendants, John Does, were agents, servants, workmen, or employees of Co-Defendant, liable to Plaintiffs hereunder.

III. Operative Facts

6. Around August 2013, Plaintiff received a 10-day gas “shut-off” notice from Defendant, PGW.

7. Plaintiff immediately contacted PGW and agreed to pay approximately \$700 to avoid termination of gas service. At that time, PGW did not tell Plaintiff he needed to make any other payments.

8. On or about August 14, 2013, Plaintiff’s gas service was terminated. Plaintiff immediately contacted PGW again and was told that his gas was shut off because he did not contact PGW to enter into a payment arrangement.

9. Plaintiff then went to the PGW district office in South Philadelphia and presented his receipt for payment of \$700. Plaintiff was told that the amount should have been higher.

10. On or about October 15, 2013, Plaintiff filed a complaint with the Pennsylvania Public Utility Commission (“PUC”) against PGW. Docket No. C-2013-2388427.

11. In November 2013, a PGW representative, Defendant, John Doe, contacted Plaintiff and requested payment to resolve Plaintiff's complaint. Plaintiff asked for paperwork to be sent to him so that he could consider the offer.

12. Around January 2014, Plaintiff contacted PUC to find out when his evidentiary hearing would be conducted. PUC told Plaintiff that his case was closed and that he had made a payment agreement with PGW. Plaintiff was surprised and disputed that he made a payment agreement with PGW. Upon information and belief, PGW knowingly and falsely advised PUC that a settlement agreement had been reached with Plaintiff. A PUC hearing was rescheduled and held on or about March 13, 2014.

13. On or about August 27, 2014, Plaintiff's PUC complaint was sustained in part and denied in part by Administrative Law Judge, Angela T. Jones. PGW was found responsible for operational errors but not ordered to restore gas service.

14. Having exhausted his administrative remedies, Plaintiff paid PGW approximately \$2,000 to restore gas service.

15. The conduct of Defendants was part of a custom, policy and/or practice and these customs, policies or practices caused the violations of Plaintiff's rights. Upon information and belief, specifically, Defendants have a policy/practice of terminating gas service without notice and then falsely claiming settlement agreements in order to preclude citizens from receiving fairing hearings, including by and through a failure to train, supervise, and otherwise abide due process and the law.

16. As a result of the aforesaid, Plaintiffs have suffered significant financial damages and severe emotional distress.

IV. Causes of Action

COUNT I
**VIOLATION OF DUE PROCESS UNDER THE U.S. CONSTITUTION AMENDMENTS
IV AND XIV**

17. Plaintiffs incorporate by reference all prior paragraphs as if fully set forth at length herein.
18. Plaintiffs were never given notice prior to Defendants' termination of gas services. Defendants then falsely claimed settlement had been reached to preclude Plaintiffs from receiving a fair hearing.
19. The termination and hearing obstruction, in turn, constituted a violation of Plaintiffs' Constitutional right to procedural and substantive due process.
20. Terminating gas service without notice to the debtor and then obstructing a fair hearing violates the due process clauses of the Fourth and Fourteenth Amendments.
21. Defendants are a state actor per 42 U.S.C. §1983, et seq.
22. Defendants' willful, reckless and malicious actions were made in an effort to deprive Plaintiffs of their rights as set forth above and pursuant to U.S. Const. Amends. IV and XIV.

COUNT II
NEGLIGENCE

23. Plaintiffs incorporate by reference all prior paragraphs as if fully set forth at length herein.
24. As a direct result of Defendants' intentional, negligent, careless, and/or reckless misconduct, including but not limited to Defendants' terminating gas service without notice to the debtor and then obstructing a fair hearing, as described herein, caused Plaintiffs to be personally and financially damaged and/or injured, all of which may be permanent, ongoing and/or an aggravation of a pre-existing condition(s), including, but not limited to:

- a. humiliation, embarrassment, emotional distress, inconvenience and annoyance;
- b. financial and/or personal injury;
- c. attorneys fees, expenses and costs;
- d. damage to credit-worthiness and credit score; and
- e. such other and further injury as may be revealed through continuing discovery and/or at trial.

COUNT III
ABUSE OF PROCESS

25. Plaintiffs incorporate by reference all prior paragraphs as if fully set forth at length herein.
26. Terminating gas service without notice and then obstructing a fair hearing was intentional, wanton, malicious and with reckless disregard for the rights of Plaintiffs.
27. Plaintiffs suffered harm due to Defendants' conduct.

COUNT IV
Monell

28. Plaintiffs incorporate by reference all prior paragraphs as if fully set forth at length herein.
29. Prior to the events described herein, Defendants developed and maintained policies, practices, procedures and customs exhibiting deliberate indifference to the Constitutional rights of persons, which caused violations of Plaintiffs' constitutional and other rights.
30. The above described acts or omissions by Defendants, demonstrated a deliberate indifference to the rights of citizens, such as Plaintiffs, and were the cause of the violations of Plaintiffs' rights as set forth herein.
31. Plaintiffs suffered harm due to Defendants' conduct.

COUNT V
**PENNSYLVANIA UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION
LAW (“UTPCPL”)**

32. Plaintiffs incorporate by reference all prior paragraphs as if fully set forth at length herein.
33. Plaintiffs are “Person(s)” as defined by 73 Pa.C.S. §2012.
34. The UTPCPL proscribes, *inter alia*, engaging in any “unfair and deceptive acts or practices” either at, prior to, or subsequent to a consumer transaction.
35. The actions of Defendants, as aforesaid (incorporated by reference), constitute unfair or deceptive acts and practices under UTPCPL.
36. As a direct and proximate result of the said actions, Plaintiffs suffered harm (incorporated by reference).

COUNT VI
LOSS OF CONSORTIUM

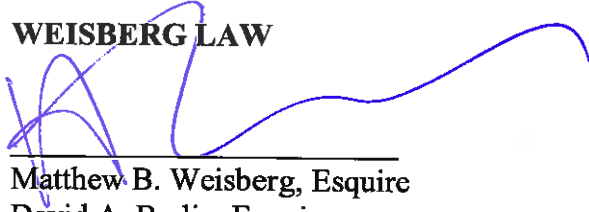
37. Plaintiffs incorporate by reference all prior paragraphs as if fully set forth at length herein.
38. As a result of the wrongful acts of Defendants, Plaintiffs were caused to suffer, and will continue to suffer in the future, loss of consortium, loss of society, affection, assistance, and conjugal fellowship, all to the detriment of their marital relationship.
39. All the aforesaid injuries and damages were caused solely and proximately by the Defendants.

V. Prayer for Relief

WHEREFORE, Plaintiffs respectfully request judgment in their favor and against Defendants, individually, jointly and/or severally, in an amount in excess of \$75,000.00, including:

- a. Compensatory, statutory, and punitive damages;
- b. Attorneys' fees, costs and interest; and
- c. Injunctive relief, including monitoring and training; and
- d. Such other and further relief as this Court may deem proper.

WEISBERG LAW



Matthew B. Weisberg, Esquire
David A. Berlin, Esquire
Attorneys for Plaintiffs